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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,082	02/11/2002	Arie Besemer	000515-238	1948

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/071,082	Applicant(s) BESEMER ET AL.	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 14 December 2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that Kohol discloses an adhesive comprising a cross-linked polymer and a plasticizer, it is noted that the polymer of Kohol constitutes a first hydrophilic organic component, the glycerol of the plasticizer constitutes a second hydrophilic organic component, and the plasticizer further comprises water and an acid. Therefore, Kohol discloses all aspects of the claimed invention.

The applicant's arguments that Kohol discloses an adhesive composition have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's argument that Kohol fails to disclose a non-adhesive impregnation, it is noted that the limitation requiring the impregnation be non-adhesive constitutes new matter.

Specification

The amendment filed 14 December 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The impregnation being non-adhesive is not disclosed in the instant specification. No

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disclosure of adhesive or non-adhesive properties is given, and therefore claiming a non-adhesive impregnation constitutes new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15 and 18-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The impregnation being non-adhesive is not disclosed in the instant specification. No disclosure of adhesive or non-adhesive properties is given, and therefore claiming a non-adhesive impregnation constitutes new matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 10, 13-14, 16-17, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohol et al. (EP 1 025 866 A1).

Kohol discloses all aspects of the claimed invention with the exception of the impregnation consisting of at most two hydrophilic organic components. The impregnation is described on page 7, lines 5-11, as including mixtures of plasticizers, the suitable plasticizers including both hydrophobic and hydrophilic components. Kohol discloses on page 7, line 4, that the plasticizer may be hydrophilic. It would therefore be obvious to one of ordinary skill in the art at the time of invention to select only hydrophilic components for the impregnation of Kohol in order to provide a hydrophilic plasticizer.

Kohol discloses an absorbent article, as described on page 9, line 36 to page 10, line 58, comprising an absorbent body and a cover having a fluid-pervious surface layer and a fluid-impervious surface layer. The fluid-pervious surface layer disclosed by Kohol comprises an impregnation, as described on page 9, lines 38-48. The impregnation consists of a hydrophilic organic solvent, glycerol, water, and an acid, as described on page 6, lines 35-57, and page 7, lines 10-11. Glycerol has a low vapor pressure at room temperature, a vapor pressure less than 1 mm Hg at 40 degrees C, and a high oxygen content of 30%. Since the impregnation of Kohol consists of the same composition as the claimed impregnation, the impregnation of Kohol inherently will enhance the absorption rate, since such a characteristic is dependant on the composition of the impregnation.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohol et al. (EP 1 025 866 A1) in view of Shank (3,857,718).

Kohol discloses all aspects of the claimed invention with the exception of the acid being lactic acid. Kohol discloses the use of citric acid as a plasticizer on page 6, lines 5-8. Shank teaches the equivalent use of citric acid and lactic acid as plasticizers in column 7, lines 1-2. . It would therefore be obvious to one of ordinary skill in the art at the time of invention to use construct the article of Kohol with lactic acid, since Shank teaches the equivalence of lactic acid and citric acid for their use as plasticizers, and the selection of either one would be within the level of ordinary skill in the art.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krzysik et al. (6,534,074) in view of Kraskin (3,935,862).

Krzysik discloses all aspects of the claimed invention with the exception of glycerol. Krzysik discloses an absorbent article having an absorbent body and a cover with a fluid-pervious surface layer and a fluid-impervious surface layer, as described in column 2, lines 4-9. The fluid-pervious surface layer comprises an impregnation, as disclosed in column 3, lines 39-50, the impregnation being a composition that comprises a hydrophilic organic solvent having a low vapor pressure at room temperature, as disclosed in column 9, lines 45-64.

Kraskin discloses in column 4, lines 51-54, glycerol as being an art recognized equivalent of propylene glycol when used for skin treatment in conjunction with absorbent articles. It would therefore be obvious to one of ordinary skill in the art at the time of invention to use construct the article of Krzysik with glycerol, since Kraskin teaches the equivalence of glycerol and propylene glycol for their use in skin

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treatments, and the selection of either one would be within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA
cla
March 3, 2006

TATYANA ZALUKAEVA
SUPERVISOR
